

Internal Revenue Service  
P. O. Box 2508  
Cincinnati, OH 45201

Department of the Treasury

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Employer Identification Number:

Person to Contact - ID#:

Contact Telephone Numbers:

**LEGEND:**

M = Name of Estate  
B = Dollar Amount  
C = Name of Fund  
D = Name of State

Dear \_\_\_\_\_ :

We have considered your December 14, 2012 request for recognition of an unusual grant under Treasury Regulations section 1.170A-9(f)(6)(ii) and related provisions.

Based on the information provided, we have concluded that the proposed grant constitutes an unusual grant under section 1.170A-9(f)(6)(ii) and related provisions of the regulations. The basis for our conclusion is set forth below.

**Facts:**

You are a community foundation and classified as a public charity under 509(a)(1) and 170(b)(1)(A)(vi). You are receiving a contribution from the estate of M. The amount of the estate is approximately B and includes equities, cash and various properties which will be sold to establish a designated fund to benefit other public charities. The fund will be named C and will make grants from its earnings to designated public charities within the state of D. The distributions from the earnings will be in yearly installments and will be calculated using your normal business processes. The designated funds are invested according to the policies adopted by your Board of Directors and distributions are subject to your spending policies.

**Law:**

Treasury Regulations sections 1.170A-9(f)(6)(ii) and 1.509(a)-3(c)(4) set forth the criteria for an unusual grant.

Treasury Regulations section 1.170A-9(f)(6)(ii) states that, for purposes of applying the 2-percent limitation to determine whether the 33 1/3 percent-of-support test is satisfied, one or more contributions may be excluded from both the numerator and the denominator of the applicable percent-of-support fraction. The exclusion is generally intended to apply to substantial contributions or bequests from disinterested parties which:

- are attracted by reason of the publicly supported nature of the organization;
- are unusual or unexpected with respect to the amount thereof; and
- would, by reason of their size, adversely affect the status of the organization as normally being publicly supported.

Treasury Regulations section 1.509(a)-3(c)(4) states that all pertinent facts and circumstances will be taken into consideration to determine whether a particular contribution may be excluded. No single factor will necessarily be determinative. Such factors may include:

- Whether the contribution was made by a person who
  - a. created the organization
  - b. previously contributed a substantial part of its support or endowment
  - c. stood in a position of authority with respect to the organization, such as a foundation manager within the meaning of section 4946(b)
  - d. directly or indirectly exercised control over the organization, or
  - e. was in a relationship described in Internal Revenue Code section 4946(a)(1)(C) through 4946(a)(1)(G) with someone listed in bullets a, b, c, or d above.

A contribution made by a person described in a. - e. is ordinarily given less favorable consideration than a contribution made by others not described above.

- Whether the contribution was a bequest or an inter vivos transfer. A bequest will ordinarily be given more favorable consideration than an inter vivos transfer.
- Whether the contribution was in the form of cash, readily marketable securities, or assets which further the exempt purposes of the organization, such as a gift of a painting to a museum.
- Whether (except in the case of a new organization) prior to the receipt of the particular contribution, the organization (a) has carried on an actual program of public solicitation and exempt activities and (b) has been able to attract a significant amount of public support.
- Whether the organization may reasonably be expected to attract a significant amount of public support after the particular contribution. Continued reliance on unusual grants to fund an organization's current operating expenses (as opposed to providing new endowment funds) may be evidence that the organization cannot reasonably be expected to attract future public support.
- Whether, prior to the year in which the particular contribution was received, the organization met the one-third support test described in section 1.509(a)-3(a)(2) without the benefit of any exclusions of unusual grants pursuant to section 1.509-3(c)(3);
- Whether the organization has a representative governing body as described in Treasury Regulations section 1.509(a)-3(d)(3)(i); and

- Whether material restrictions or conditions within the meaning of Treasury Regulations section 1.507-2(a)(7) have been imposed by the transferor upon the transferee in connection with such transfer.

**Application of Law:**

The contribution meets the three characteristics of an unusual grant described in section 1.170A-9(f)(6)(ii). The contribution is given to you solely due to the publicly supported nature of your organization. The size of the contribution is unusual compared to your typical level of support. The contribution may, by reason of its size, adversely affect your status as normally being publicly supported.

The contribution also meets the factors in Treasury Regulations section 1.509(a)-3(c)(4) as an unusual grant in that the contribution is not being made by a person who previously contributed a substantial part of your support nor stood in a position of authority. The contribution is in the form of a bequest without any material restrictions other than that the funds are to benefit specific designated charities. The contribution is in the form of securities, cash, and properties which will be sold and the earnings will be used to benefit the designated charities. Your board of directors consists of 18 community leaders and you have previously met the public support tests.

If you have any questions, please contact the person listed in the heading of this letter.

Sincerely,

Director, Exempt Organizations